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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,324	03/16/2001	Steven M. Schein	ST/ 028 CONT 2	9059
75563 7590 12/28/2007 ROPES & GRAY LLP PATENT DOCKETING 39/361 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704			EXAMINER PARRA, OMAR S	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/810,324	SCHEIN ET AL.	
	Examiner	Art Unit	
	Omar Parra	2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-37 have been considered but are moot in view of the new ground(s) of rejection.

In regards to applicant's arguments, in sections III and IV, pages 11-13 on applicant's Remarks, the applicant points out that the new limitation "*...navigating a highlight to the television program title without displaying data related to the television program..*" is supported on page 25 line 33-page 26 line 11. The applicant also contends that Matthew's reference does not teach this limitation given the fact that Matthew's shows additional information and links to more related information through a program summary section (Remarks, page 12 3rd paragraph). To this matter, the examiner respectfully disagrees.

The cited portion of the specifications refers to the system's capability of searching, linking, selecting, and/or initiating a subscription to more information relating to concerns associated with a program or a program's title. According to the same section, "the user of an electronic program guide (e.g. as described above) can conduct a search for information about a particular program/television show, the actors, the actresses, the show's theme, other broadcast and sources, and other related information through selection via a user interface". This portion, on the other hand, does not preclude the showing of related information while scanning the EPG with the cursor. On the contrary, searching, linking to more information associated to the program title is

contemplated in that passage, which implies or suggests that some related information is/was being presented or accessible to the user.

In addition, the use of an electronic program guide (e.g. as described) further discloses that information related to a highlighted program title is displayed. As per the specifications, the electronic program guide has as an element a window 528 (Fig 16A-21C), which displays related title-related information such as program previews, descriptive content and contextual information ([0133] or page 37 line 37- page 38 line 24 of originally filed specifications).

Matthews reference discloses, on the other hand, a window (128, Fig. 5) where descriptive information or program summary information, in the same way as window 528 Figs. 16A-21C of applicant's specifications, displays descriptive or program summary information. In addition, links are provided at the grid or at window 128 for acquiring additional information related to the program after the user clicked on them ([0069]-[0071]).

Therefore, Matthews reference does teach, in the same way as applicant's specifications, getting additional information without displaying data related to the program title (Besides the descriptive data, which is shown in the same way by applicant's specs, the related data –i.e. information of the previous episode if "Last week" is clicked, additional information after clicking "More", etc- is not displayed until the user actually clicks on a hyperlink.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims **1-4, 15-19-22 and 33-37** are rejected under 35 U.S.C. 102(e) as being anticipated by Matthews, III et al. (hereinafter 'Matthews', Pub. No. 2004/0139465).

Regarding claims 1 and 19, Matthews teaches an interactive program guide having a display screen comprising:

a database for storing television schedule information including television program titles (**40, 46, 54 and 86, Fig. 3**);

a display controller (**Processor 92, Fig.4**) electrically coupled to the database for displaying some of the television schedule information including television program titles on the display screen (**[0063] lines 1—7**);

an input device that is configured to (**[0066] lines 5-8**):

receive a first user selection of a television program title displayed on the display screen, the first user selection comprising navigating a highlight to the television program title without displaying data related to the television program (**[0066] lines 1-5 or selection of 'Seinfeld', Fig. 5**); and

receive a second user selection requesting that data available on a public network and related to the selected television program title be displayed after the first selection **([0069]-[0072], where the user clicks on a hyperlink to get additional information related to a title);**

a processor for identifying data available on a public network that is related to the selected television program title **([0077]);**

a communication device for receiving the identified data related to the selected television program title **([0061]);** and

a controller for displaying , in direct response to the second user selection, the received data related to the selected television program title on the display screen **([0063] lines 11-17; [0069]).**

Regarding claim 2 and 20, Matthews teaches an interactive program guide wherein the database resides on one or more remote file servers accessible through a communication link **(40, 46, 54 and 86, Fig. 3 connected to user through 74 and 82).**

Regarding claim 3 and 21, Matthews teaches an interactive program guide wherein the communication link comprises the Internet **([0059]; [0072]).**

Regarding claims 4 and 22, Matthews teaches an interactive program guide wherein the identified data comprises an advertisement **([0054]).**

Regarding claims 15 and 33, Matthews teaches an interactive program guide further comprising:

means for displaying preview programming for a future-scheduled television program (**'The Single Guy' is displayed on Fig. 5, which is preview programming to 'Seinfeld' which is a future-scheduled television program**);

means for identifying a plurality of sources of information having data related to the future-scheduled television program (**140, Fig. 5**);

means for selecting an identified source of information having data related to the future-scheduled television program (**Any of the shown hyperlinks can be selected individually, [0069]**); and

means responsive to the selected source of information for establishing a link to the identified source of information (**[0061] last 5 lines; [0063] lines 11-17; [0071]-[0072]**); and

means for displaying data from the linked source of information on the screen (**[0063] lines 11-17; [0072]**).

Regarding claims 16 and 35, Matthews teaches an interactive program guide wherein the data related to the future-scheduled television program comprises one or more of an advertisement, a video preview, and textual information (**[0054]; [0067] or Entire Fig. 5**).

Regarding claim 17 and 36, Matthews teaches an interactive program guide further comprising means for storing and displaying advertisement data (**[0056] lines 1-4 and 9-12**).

Regarding claims 18, 34 and 37, Matthews teaches and interactive program guide wherein the identified data comprises one or more of television program actors, actresses, themes, other broadcast times, other broadcast sources, and associated available products (**Actor -inherently, actress also-; associated available products - 'trekiecollectables.html', Fig. 2**).

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1-37** rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (hereinafter 'Herz', Patent No. 5,758,257) in view of Matthews, III et al. (hereinafter 'Matthews', Pub. No. 2004/0139465).

Regarding claims 1 and 19, an interactive program guide (with respective method) having a display screen comprising:



a database for storing television schedule information including television program titles (Col. 25, lines 16-18). For instance, at co1.25, line 16, Herz discloses "storing at the set top multimedia terminal..." Clearly, this meets the limitation of storing television schedule information (EPG) including television program titles.

a display controller electrically coupled to the database for displaying some of the television schedule information including television program titles on the display screen (Co1.5, lines 13-15).

an input device (RC 1008; Fig. 10) that is configured to receive a 1st user selection of a program title display on the display screen, the 1st user selection comprising navigating a highlight to the television program title (reads on the user using cursor of the RC to navigate the EPG for television program title selection; in doing so the TV program title is highlighted each time the cursor lands on each grid of the EPG that contains corresponding TV program title; Col. 45, lines 35-50);

a processor (Fig. 10, el. 1006) for identifying data available on the public network (Internet) that is related to the selected television program title (reads on the system bases on user's profile that contains of selected ~ program titles viewed by a viewer, the system identifies related data, i.e. advertisement, to selected TV program title viewed and then presents it to viewer; see Col. 41, lines 20-25 and Col. 51, lines 48-55. Moreover, Herz discloses the collected data, i.e. user profile, could be collected by the data collection system 508,622 on a real-time basis, see Col. 42, lines 60-63; For example, the TV program title is collected by the data collection system (508,622) each time the user selects it, and based on the collected data (selected TV program title

viewed by a viewer), the system identifies related data to the collected data and then presents related data to corresponding viewer);

a communication device (Fig. 10, el. 1020) for receiving the identified data related to the selected television program title; and

a controller for displaying the received data related to the selected television program title on the display screen (Col. 46, lines 54-60 and Col. 51, lines 3-65+).

On the other hand, Herz does not explicitly disclose that the receiver device able to receive a 2nd user selection requesting that data available on a public network, in direct response to the 2nd user selection, the controller for displaying the received data related to the selected television program title be displayed after the 1st selection. Additionally, Herz does not explicitly teach that during navigation on the EPG no data related to the program is displayed.

However, in an analogous art, Matthews teaches an EPG where selection of a program (highlighting of a title) is performed on without displaying data related to the television program (User can position cursor 126, Fig. 5 and hyperlinks are displayed for the user to get additional information, which is not displayed until links are clicked on, [0066]-[0072]). In addition to this feature, a second user selection can be made for additional data on said first selected program and as response to that request, data is received and presented from an internet server ([0063] lines 11-17; [0069]-[0072]);

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Herz' invention with the features described above as taught by Matthew's for the benefit of integrating hyperlinks within the EPG and letting

the viewer readily identify supplemental information to the programs and access it without having to remember that certain program has related information or surfing through channels or internet to look for related information (Matthews, [0035]).

Regarding claim 2, wherein the database resides on one or more remote file servers accessible through a communication link (Herz, Co1.46, line 65-67 or Matthews: 40, 46, 54 and 86, Fig. 3 connected to user through 74 and 82 ).

Regarding claim 3, wherein the communication link comprises an Internet (Herz: Col.51, lines 6-7 or Matthews, ([0059]; [0072])).

Regarding claim 4, wherein the identified data comprises an advertisement (Herz: Col. 41, lines 20-25; Co1.47, lines 59-67 and Co1.48, lines 1-5 or Matthews: ([0054])).

Regarding claim 5, the combined teachings of Herz and Matthews further disclose:

means for monitoring (Herz, Co1.14, lines 3-7) and storing a plurality of user selections of television programs (Herz, Col.25, lines 37-41 );

means for learning a user preference based on the plurality of user selections of the television programs (Herz, Col. 6, lines 50-57);

means for activating the program guide based on the user preference (for reminding the user to view the preferred television program; (Herz, Col.23, lines 1-7).

Regarding claim 6, wherein the means for learning the user-preference comprises means for storing the user preference responsive to a user input (Herz, Co1.22, lines 19).

Regarding claim 7, wherein the user preference comprises a television program (Herz, col.25, lines 16-18).

Regarding claim 8, wherein the user preference comprises a theme for a plurality of television programs (Herz, Col. 4, lines 32-34).

Regarding claim 9, wherein the means for activating comprises means for reminding a user to view a preferred television program (Col.23, lines 1-7).

Regarding claim 10, wherein the means for activating comprises means for recording a preferred television program (a record is kept of all movies or shows watched by all customers, Col. 1, lines 50-55 and Col.38, lines 42-43).

Regarding claim 11, wherein the means for activating comprises means for downloading a copy of a preferred television program to a digital storage medium (memory; Co1.51, lines 40-52).

Regarding claim 12, wherein the activating means comprises:

means for searching the television schedule information (Herz, Col. 5, lines 54-58);

means for identifying television programs matching the theme for the plurality of television programs (Herz, Col. 6, lines 1-35); and

means for recording the television programs matching the theme for the plurality of television programs (Herz, Col. 25, lines 15-30).

Regarding claim 13, wherein the activating means comprises means for searching the television schedule information (Herz, Col. 5, lines 54-58); means for identifying television programs matching the theme for the plurality of television programs (Herz, Col. 6, lines 1-35); and downloading a copy of the television programs matching the theme for the plurality of television programs to a digital storage medium (Herz, Col. 25, lines 15-30).

Regarding claim 14, wherein the means for activating comprises means for adapting the television schedule information displayed on the screen based on the user-preference (Herz, Col.45, line 14-38).

Regarding claim 15, further comprising:

means for displaying preview programming for future-scheduled television program (Herz, Col.48, lines 48-55);

means for identifying a plurality of sources of information (Herz, Col.4, lines 33) having data related to the future-scheduled television program (Herz, Col. 41, lines 25-30);

means for selecting an identified source of information (advertiser) having data (advertisement) related to the future-scheduled television programs (Herz, Col. 41, lines 25-30);

means responsive to the selected source of information for establishing a link to the identified source of information (Herz, Fig.10, Co1.47, lines 55-65+); and

means for displaying data (targeted advertising) from the linked source of information (advertiser) on the screen (Herz, Col.47, lines 54-65+).

Regarding claim 16, wherein the data related to the future-scheduled television program comprises one or more advertisement, video preview, and textual information (Herz, Col.47, lines 54-65+; Col. 51, lines 5-28 and lines 50-52).

Regarding claim 17, further comprising means for storing and displaying advertisement data (Herz, Col. 47, lines 59-67 and Col.48, lines 1-5).

Regarding claim 18, wherein the identified data comprises one or more of selected TV program actors, actresses, themes, other broadcast times, other broadcast sources, and associated available products (Herz, Col. 4, lines 64-67; Col. 51, lines 48-55).

Claim 20 is analyzed with respect to claim 2.

Claim 21 is analyzed with respect to claim 3.

Claim 22 is analyzed with respect to claim 4.

Claim 23 is analyzed with respect to claim 5.

Claim 24 is analyzed with respect to claim 6.

Claim 25 is analyzed with respect to claim 7.

Claim 26 is analyzed with respect to claim 8.

Claim 27 is analyzed with respect to claim 9.

Claim 28 is analyzed with respect to claim 10.

Claim 29 is analyzed with respect to claim 11.

Claim 30 is analyzed with respect to claim 12.

Claim 31 is analyzed with respect to claim 13.

Claim 32 is analyzed with respect to claim 14.

Claim 33 is analyzed with respect to claim 15.

Claim 34 is analyzed with respect to claim 16.

Claim 35 is analyzed with respect to claim 17.

Claim 36 is analyzed with respect to claim 18.

Claim 37 is analyzed with respect to claim 18.

***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Parra whose telephone number is 571-270-1449. The examiner can normally be reached on Under Academy Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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